

LEGISLATIVE RESEARCH COMMISSION

INSURANCE



REPORT TO THE
1981 GENERAL ASSEMBLY
OF NORTH CAROLINA
1982 SESSION

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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



May 20, 1982

TO THE MEMBERS OF THE 1981 GENERAL ASSEMBLY (1982 REGULAR SESSION):

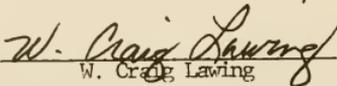
The report, as amended, of the Legislative Research Commission's Insurance Study Committee made pursuant to Resolution 61 of the 1981 Session is attached.

The Legislative Research Commission adopts, approves and recommends to the 1982 Session of the General Assembly Recommendations A through C and E and F of its Insurance Study Committee, which appear in this report on pages 5 through 8.

The Legislative Research Commission transmits, for informational purposes only, Recommendation D, which appears in this report on page 6.

Respectfully submitted,


Liston B. Ramsey


W. Craig Lawing

Cochairmen

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INTRODUCTION

The Legislative Research Commission, created by Article 6B of General Statutes Chapter 120, is authorized at the direction of the General Assembly "to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assbmbly in performing its duties in the most efficient and effective manner" and "to report to the General Assembly the results of the studies made," which reports "may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations." G.S. 120-30.17. The Commission is chaired by the Speaker of the House and the President Pro Tempore of the Senate, and consists of five Representatives and five Senators, who are appointed respectively by the Cochairmen. G.S. 120-130.10(a).

On the authorization of the 1981 General Assembly, the Legislative Research Commission has undertaken studies of twenty-seven matters, which have been arranged into eleven groups according to related subject matter. See Appendix A for a list of the Commission members. Pursuant to G.S. 120-30.10(b) and (c), the Commission Cochairmen appointed study committees consisting of legislators and public members to conduct the studies. Each member of the Legislative Research Commission was delegated the responsibility of overseeing one group of studies and causing the findings and

recommendations of the various study committees to be reported to the Commission. In addition, one Senator and one Representative from each study committee were designated Cochairmen. See Appendix B for a list of the Insurance Study Committee members.

During the first regular session of the 1981 General Assembly, a number of insurance study bills and resolutions were introduced. Three of these measures (HB 1071, HJR 1198, and HJR 1328) were consolidated and incorporated by reference into House Joint Resolution 1292 (Resolution 61), which authorized the Legislative Research Commission to study these and other matters. In addition, language was added to Section 1(10) of HJR 1292 that authorized the Commission to study the feasibility of creating within the Department of Insurance a board that would regulate all aspects of insurance. HJR 1292 authorized the Commission to make an interim report to the June, 1982 Session of the 1981 General Assembly and a final report to the 1983 General Assembly. See Appendix C for pertinent sections of HJR 1292, HB 1071, HJR 1198, and HJR 1328.

COMMITTEE PROCEEDINGS

The Insurance Study Committee has thus far held four meetings: On December 3, 1981; and February 17, March 30, and April 28, 1982.

At the Committee's December 3 organizational meeting, the members were briefed on the subject matter to be studied, the reporting dates, and the powers of the Committee.

Presentations were given on State government risk management (Secretary of Administration Jane Patterson), credit insurance (Committee Counsel Kenneth Levenbook), and 1981 insurance legislation and subsequent administrative hearings and court decisions (Committee Counsel William Hale).

On February 17 the Committee heard presentations on credit insurance by Mr. Charles D. Barbour of the N.C. Consumer Finance Association and by Mr. Michael D. Calhoun of Legal Services of North Carolina; on insurance regulation by Commissioner Ingram, Mr. Bernard Parker of Nationwide Insurance, Mr. John McMillan of Allstate Insurance, Mr. Robert C. Paschal of State Farm Mutual Insurance, and Mr. Benjamin F. Seagle, III, of Aetna Life and Casualty Insurance; and on State risk management by Mr. Sam Newman of the State Auditor's office, Mr. William H. Stephenson, Chairman of the N. C. Industrial Commission, Mr. Harold Webb, State Personnel Director, and Mr. Herbert Lamson, Jr., of the State Attorney General's office.

On March 30 the Cochairmen put before the Committee some suggestions for the members to consider putting in the 1982 interim report, with respect to insurance regulation. Aside from technical changes, these dealt with replacing the Safe Driver Insurance Plan with the Safe Driver Reward Plan, broadening the automobile insurance classification plan, the manner in which underinsured motorist coverage is offered, and the reports required of product liability insurers. These matters were briefly discussed, and it was agreed that the members would consider them at the next meeting. The

next presentation was by Committee Counsel Susan Frost, who with Mr. Lamson, had prepared a draft of a bill that would establish a uniform procedure for administration of State employees' workers' compensation claims. Mrs. Frost explained the provisions of the bill to the members. It was then decided that the fiscal aspects of the bill would be addressed at the next meeting.

On April 28 the Committee heard a presentation by Mr. Robert Hunter, an actuary who spoke on behalf of the Department of Insurance. Mr. Hunter commented on the implementation of House Bill 7; automobile insurance rate deviations and their inapplicability to clean risks in the Reinsurance Facility; the issues raised at the March 30 meeting regarding the Safe Driver Insurance Plan and automobile classifications; and the October, 1980 report by Conning & Company entitled "Regulatory Review: Property and Casualty Industry". The Committee also heard from Mr. Gary Fisher, President of the Carolinas Association of Professional Insurance Agents, and from Mrs. Joyce B. Rodgers, Executive Director of the N.C. Dental Society. The Committee then turned to discussion of the draft of the State employees' workers' compensation bill and its fiscal impact.

Mrs. Linda Powell of the Fiscal Research Division discussed this aspect with the Committee. The final order of business was the making of motions and voting on recommendations that would be made to the June 1982 Session of the 1981 General Assembly.

Details of these four meetings are contained in the Insurance Study Committee's minutes, which are on file in the Legislative Library.

FINDINGS AND RECOMMENDATIONS

I. INSURANCE REGULATION

A. The monetary threshold for property damage under the Safe Driver Insurance Plan (SDIP) point system should be increased from two hundred to five hundred dollars. Two SDIP points are assigned for accidents caused by a policyholder that result in damage in excess of two hundred dollars to the policyholder's automobile or to any property not owned by the policyholder. For property damage that amounts to two hundred dollars or less, one SDIP point is assigned. Since this dollar threshold was established in 1969, the annual inflation rate for automobile body repairs has generally been a double-digit rate. The Insurance Study Committee is of the opinion that two hundred dollars is no longer a realistic threshold for automobile damage repair costs, especially in light of the percentage difference in the SDIP surcharge between one and two SDIP points. For example, under the current Plan, a one-automobile policy with no inexperienced operators is surcharged ten percent for one SDIP point and forty percent for two SDIP points.

B. Applicants for motor vehicle liability insurance policies should be made aware of the availability of underinsured motorist coverage. Underinsured motorist protection has been available to North Carolina policyholders since 1979. Under the law, however, an insurer only has to provide this coverage upon the written request of the policyholder. Because many consumers are not aware of this valuable yet inexpensive coverage, agents, brokers, and direct writers should inform all applicants of its availability.

C. The statutory provision requiring insurers writing product liability insurance in North Carolina to report their underwriting experience for North Carolina insureds should be revised to require only the filing of the National Association of Insurance Commissioners reporting supplement. At the same time G.S. 58-21.2 was enacted (1979), the NAIC adopted a uniform product liability supplement to the annual statement filed by insurers with the various state insurance regulators. This supplement provides extensive data for each state on premiums, losses, and dividends. In addition, the supplement provides detailed financial data on underwriting and expenses on a countrywide basis. Countrywide data is appropriate because product liability insurance is often sold on a nationwide basis. The products of most manufacturers are distributed throughout several or all states, and the claims that result from such products can occur anywhere. The lawsuits that result from such incidents might be brought in the state where manufactured, where sold, where the product is used, or in a state where the injured party resides, depending on the applicable federal or state jurisdictional laws. Thus, collecting information on product liability experience in a particular state cannot accurately show whether the state's products are causing more or less claims than in the past, and cannot reveal whether the insureds in that state are paying too much or too little for their product liability insurance.

D. The provision in the accident and health insurance continuation and conversion law that restricts rate filings to one every two years should be repealed. Under G.S. 58-254.47(c), loss ratios may not be less than 60%, and if a loss ratio in excess of 80% is incurred by an insurer, he may increase the premium rates to a level that will produce an 80% loss ratio (eighty cents paid out for every dollar of premium income). However, rate filings may not be made more often than once every two years beginning on January 1, 1984. In health

insurance it is very difficult to estimate, even annually, a premium rate that will produce an 80% loss ratio. If premium rates cannot be adjusted more frequently than once every two years, large premium increases usually result. It then becomes more difficult for a policyholder who has terminated employment to budget and pay for large increases, particularly unexpected ones. This two year provision would be counterproductive because it would often cause insureds to cancel their insurance policies, leaving them without medical insurance. Another problem with this provision is that an average premium rate for a two-year period in an inflationary economy would actually represent a rate that is greater than that required in the first year and less than that required in the second year. Many insureds who purchase conversion policies do not retain them for long periods of time because they obtain group coverage when they are employed again. In most cases more people could purchase the protection they need at a lower cost if rate filings were allowed to be made more frequently. More frequent rate adjustments would be in the best interests of the majority of the holders of conversion policies because they would benefit new applicants who remain covered for short periods of time as well as those who retain their policies for longer periods because of poor health.

E. Insurance laws that have been declared unconstitutional should be removed from the books. G.S. 58-44.6, which purports to give the Commissioner the power to impose a civil penalty for violation of General Statutes Chapter 57 and 58, and Article 18C of General Statutes Chapter 58, which created the Health Care Liability Reinsurance Exchange, have both been declared unconstitutional by the Supreme Court of North Carolina. There is therefore no point in continuing to publish these provisions in the General Statutes of North Carolina.

F. Statutes that contain obsolete references should be amended appropriately. G.S. 58-248.33(b)(3) and (d) contain references to entities that have had changes made to their names since these statutes were enacted.

SEE APPENDIX D FOR LEGISLATION THAT WOULD IMPLEMENT RECOMMENDATIONS A, B, C, E, AND F.

II. STATE RISK MANAGEMENT

In its four meetings the Insurance Study Committee has heard presentations by the Departments of Administration and Justice, the State Auditor's Office, and the Industrial Commission. The Committee has tentatively approved legislation that would require all State employees' workers' compensation claims (except those of certain employees of the Department of Crime Control and Public Safety) to be processed by the Department of Justice. The bill would also (1) create a State Employees' Workers' Compensation Fund to pay claims and (2) establish an office in the Department of Justice to administer such claims.

The Committee has also reviewed the statutes governing the Risk Management Division and Board of New Mexico. At a future Committee meeting the Department of Administration will present a proposal concerning the creation of a similar agency in North Carolina.

The Committee is awaiting final information concerning the cost of the proposed Workers' Compensation Fund. The Committee intends to make its final recommendations on State risk management to the 1983 General Assembly.

III. CREDIT INSURANCE

The credit insurance legislation enacted by the 1981 General Assembly did not become effective until October 1, 1981, and only applied to new and renewed policies of credit life, credit accident and health, and credit property insurance. The Insurance Study Committee is of the opinion that not enough time has elapsed to provide sufficient experience from which

the Committee might properly assess the effect of this legislation. The Committee intends to pursue its study of credit insurance and report on this matter to the 1983 General Assembly.

APPENDIX A
STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



MEMBERSHIP

1981-1983

Cochairmen:

House Speaker Liston B. Ramsey

Senate President Pro Tempore W. Craig Lawing

Members:

Representative Chris S. Barker, Jr.
New Bern

Representative John T. Church
Henderson

Representative Gordon H. Greenwood
Black Mountain

Representative John J. Hunt
Lattimore

Representative Lura S. Tally
Fayetteville

Senator Henson P. Barnes
Goldsboro

Senator Carolyn Mathis
Charlotte

Senator William D. Mills
Maysville

Senator Russell Walker
Asheboro

Senator Robert W. Wynne
Raleigh

APPENDIX B
STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



INSURANCE STUDY COMMITTEE

1981-83

LRC Member Responsible for Study:

Senator Carolyn Mathis
Charlotte

Committee Cochairmen:

Senator Robert W. Wynne
Raleigh

Representative Mary P. Seymour
Greensboro

Committee Members:

Senator James McClure Clarke
Asheville

Senator Donald R. Kincaid
Lenoir

Senator Sam R. Noble
Lumberton

Senator R.C. Soles, Jr.
Tabor City

Representative Richard W. Barnes
Winston-Salem

Representative R. D. Beard
Fayetteville

Representative Charles D. Evans
Nags Head

Representative LeRoy P. Spoon, Jr.
Charlotte

H. R. 1292 RESOLUTION 61
A JOINT RESOLUTION AUTHORIZING STUDIES BY THE
LEGISLATIVE RESEARCH COMMISSION.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1981 bill or resolution that originally proposed the study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

- (10) Matters related to insurance, including:
 - a. Insurance regulation (H.B. 1071 as amended — Seymour), including the feasibility of establishing within the Department of Insurance a risk and rate equity board.
 - b. How the State should cover risks of liability for personal injury and property damage (H.J.R. 1198 — Seymour).
 - c. Credit insurance (H.J.R. 1328 — Barnes).

Sec. 2. For each of the topics the Legislative Research Commission decides to study, the Commission may report its findings, together with any recommended legislation, to the 1982 Session of the General Assembly or to the 1983 General Assembly, or the Commission may make an interim report to the 1982 Session and a final report to the 1983 General Assembly.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1981

HOUSE BILL 1071

A BILL TO BE ENTITLED

AN ACT TO CREATE THE NORTH CAROLINA INSURANCE REGULATION STUDY
COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds and declares
that:

(a) The North Carolina Commissioner of Insurance and
the Department of Insurance are charged by law with the
responsibility of oversight and regulation of insurance

companies, associations, agents, and rating organizations that are under the jurisdiction of the insurance laws of this State.

(b) The Commissioner of Insurance and the Department of Insurance have responsibilities to make and promulgate rules and regulations to effectively administer the insurance laws and fairly regulate the business of insurance in North Carolina.

(c) The scope and size of the administrative and regulatory responsibilities of the Commissioner of Insurance and the Department of Insurance have grown significantly in recent years.

(d) There have been problems in the construction, interpretation, and understanding of the insurance statutes of this State, some of which have been described by the Supreme Court of North Carolina as "confusing and unwieldy".

(e) There have been problems in and criticisms of the State's system and methods of regulation of the business of insurance.

Sec. 3. The Study Commission is directed to review and analyze:

(a) All aspects of administration and organization within the Department of Insurance. Such study shall include appropriate evaluations of staffing, management, fiscal control, licensing of agents, adjusters, and companies, filings, and hearing procedures; the powers, duties, and proper role of the Commissioner of Insurance; and such other matters as are generally related to the effective and statutory execution of the responsibilities of the Department of Insurance and the Commissioner of Insurance.

(b) The form, style, and intelligibility of the North Carolina General Statutes concerning insurance and the manner in which such statutes can be rewritten and recodified to improve them in this regard.

(c) The various systems and methods of insurance regulation in this State and in other states.

GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 1981

HOUSE JOINT RESOLUTION 1198

A JOINT RESOLUTION REQUESTING THE GOVERNOR TO ESTABLISH A RISK MANAGEMENT STUDY COMMISSION.

Whereas, the doctrine of sovereign immunity is no longer in vogue; and

Whereas, the State of North Carolina has previously enacted a Torts Claim Act, G.S. 143-291; and

Whereas, the State processes claims each year totaling several millions of dollars under the above referenced statute; and

Whereas, the State also pays premiums of a comparable amount to private insurance companies each year; and

Whereas, there never has been conducted a full and comprehensive risk analysis covering the State's activities;
Now, therefore, be it resolved in the House of Representatives, the Senate concurring:

Sec. 2. The Risk Management Study Commission shall evaluate those risks and review all effective ways of coping with them, including risk retention, self-insurance, risk minimization or elimination and commercial insurance.

GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 1981

HOUSE JOINT RESOLUTION 1328

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY CREDIT INSURANCE.

Whereas, the purchase of credit insurance allows a borrower to assure that the debt will be repaid in case of death, disability, or property damage; and

Whereas, the sale of credit insurance is of great importance in the economy of this State; and

Whereas, credit insurance policies are written pursuant to Article 32 of the General Statutes Chapter 58;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission is authorized to study credit insurance in North Carolina.

Sec. 2. The Commission is authorized to study matters including but not limited to: the availability of credit insurance; the amount of premiums charged for credit insurance; the marketing of credit insurance; and the terms and conditions upon which credit insurance is issued.

INTRODUCED BY:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE INSURANCE LAWS CONCERNING THE SAFE DRIVER INSURANCE PLAN, UNDERINSURED MOTORIST COVERAGE, ACCIDENT AND HEALTH CONTINUATION AND CONVERSION POLICIES, PRODUCT LIABILITY INSURER REPORTS, AND TECHNICAL CHANGES, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of General Statutes Chapter 58 is amended by adding a new section to read:

"§58-30.5. Property damage monetary threshold under Safe Driver Insurance Plan.-- Under the subclassification plan promulgated pursuant to G.S. 58-30.4, two points shall be assigned for each chargeable automobile accident that results in (a) bodily injury or death or (b) damage in excess of five hundred dollars (\$500.00) (i) to any combination of property not owned by the applicant nor by any current resident operator or (ii) to his motor vehicle; and one point shall be assigned for each chargeable automobile accident that results in damage of five hundred dollars (\$500.00) or less (iii) to any combination of property not owned by the applicant nor by any current resident operator or (iv) to his motor vehicle."

Sec. 2. G.S. 20-279.21(b)(3), as found in the 1981 Cumulative Supplement, is amended in line 34 by substituting

1 the word "subdivision" for the word "section".

2 Sec. 3. G.S. 20-279.21(b)(4) is amended by adding the
3 following sentence:

4 "The coverage described in this subdivision shall
5 be offered to all applicants for issuances or renewals
6 of motor vehicle liability policies."

7 Sec. 4. G.S. 58-21.2 is rewritten to read:

8 "§58-21.2. Reporting of product liability experience.--
9 Every insurer providing product liability insurance or excess
10 insurance above self-insurance to one or more manufacturers,
11 sellers, or distributors in this State shall file with the
12 Commissioner, along with the insurer's annual statement, a
13 report containing the information that is listed on the
14 product liability insurance supplement as promulgated and
15 amended by the National Association of Insurance Commissioners."

16 Sec. 5. G.S. 58-44.6 is repealed.

17 Sec. 6. Article 18C of General Statutes Chapter 58
18 is repealed.

19 Sec. 7. G.S. 58-248.33(d), as found in the 1981
20 Cumulative Supplement, is amended in line 20 by substituting
21 the word, "Professional" for the word, "Mutual"; and in
22 line 21 by striking therefrom the following: ", North
23 Carolina Division".

24 Section 8. G.S. 58-248.33(b)(3), as found in the 1981
25 Cumulative Supplement, is amended by rewriting the last line
26 to read: "Rate Bureau."

27 Sec. 9. Any adjustment to base rate premiums for non-
28 fleet private passenger motor vehicle insurance that is

1 necessitated by the implementation of the provisions of
2 Section 1 of this act may be filed by the North Carolina
3 Rate Bureau with the Commissioner, notwithstanding the one
4 rate filing per year limitation in G.S. 58-124.20(c).

5 Section 10. The provisions of Section 1 of this act
6 shall be implemented by the North Carolina Rate Bureau and
7 approved by the Commissioner of Insurance no later than
8 January 1, 1983; and shall apply only to chargeable
9 accidents that occur on and after the implementation date
10 of the provisions of Section 1 of this act.

11 Sec. 11. This act is effective upon ratification.

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